

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

UNITED STATES,	§	
	§	
	§	Cr. No. C-05-193
v.	§	
	§	
ANDREW JAY WILLETT.	§	

ORDER

Defendant Andrew Jay Willett pleaded guilty in this case pursuant to a written plea agreement that included a limited waiver of his appellate rights. (D.E. 20). He was sentenced by the District Court, and judgment in his criminal case was entered on November 15, 2005. (D.E. 25). Defendant filed a timely notice of appeal *pro se*. (D.E. 26). On January 19, 2006, the Clerk received from him a motion requesting both the appointment of appellate counsel and leave to proceed on appeal *in forma pauperis*.

Rule 24, Fed. R. App. P., governs Willett's request that he be permitted to proceed on appeal *in forma pauperis*. Specifically, he is entitled to that status if he shows that he is unable to prepay the fees and costs, and states the issues that he intends to present on appeal, so long as the District Court has not certified that the appeal is not taken in good faith. See Fed. R. App. P. 24(a).

Although his motion asserts that he is unable to pre-pay the appellate docketing fee and indicates that he has no income and no assets, he has not provided any information concerning his inmate account. In short, Defendant has not provided sufficient information

from which the undersigned can determine whether he is currently indigent, nor has he provided information about the issues he intends to present on appeal.

Moreover, although Defendant was initially represented by appointed counsel, he retained counsel months before entering his guilty plea and he continued with retained counsel through sentencing. He has not provided any factual information to show that he no longer has the financial means to pay the filing fees or afford counsel, nor has he provided any information concerning his inmate account, so that it will be possible to determine whether he is financially eligible to proceed *in forma pauperis* under 18 U.S.C. § 3006 and Fed. R. Crim. P. 44.

In light of the foregoing, the Clerk is hereby directed to mail Defendant a blank application for leave to proceed *in forma pauperis*. ***Within twenty days of the entry of this order***, Defendant shall complete and return the application with his original signature. Defendant must also have the institution where he is incarcerated certify the information requested regarding his inmate account. Additionally, ***within twenty days of the entry of this Order***, Defendant shall file a brief statement stating the grounds for his appeal, so that a determination may be made as to whether his appeal is frivolous. See Fed. R. App. P. 24(a)(1)(C).

Once the undersigned receives this information from Defendant, it will then rule on his pending motions to proceed *in forma pauperis*, and for appointment of counsel.

ORDERED this 9th day of March, 2006.



B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE